

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HARLEYSVILLE INSURANCE COMPANY OF  
NEW JERSEY AS SUBROGEE OF  
PRECISE CONSTRUCTION, INC.,

Plaintiff,

COMPLAINT

-against-

Docket No.:

SIMPSON & BROWN, INC.

Defendant.  
-----X

**Plaintiff, HARLEYSVILLE INSURANCE COMPANY OF NEW JERSEY AS  
SUBROGEE OF PRECISE CONSTRUCTION, INC.,** by their attorneys, **LAW OFFICE OF  
CHARLES F. HARMS JR.,** as and for their complaint against defendant, alleges upon  
information and belief:

### **INTRODUCTION**

1. This is an action for contractual indemnification brought by the plaintiff, Harleysville Insurance Company of New Jersey as subrogee of Precise Construction, Inc., to recover the sum of \$312,290.98, said sum being the amount the Plaintiff paid in damages as a result of the actions of the defendant(s), its servants, agents and/or employees on or about February 18, 2016.

### **JURISDICTION AND VENUE**

2. Jurisdiction of this Court is founded upon complete diversity of citizenship among the parties. Harleysville Insurance Company of New Jersey is subsidiary of Nationwide Mutual Insurance Company.
3. Nationwide Mutual Insurance Company maintains its principal place of business at One Nationwide Plaza, Columbus, Ohio 43215.
4. Nationwide Mutual Insurance Company maintains and conducts business at 565 Taxter Road, Elmsford, New York 10523.

5. The Defendant, Simpson & Brown, Inc., maintains its principal place of business at 119 North Avenue West, Cranford, New Jersey 07016.
6. Venue is properly place in the United States District Court for the Southern District of New York as the Plaintiff maintains a business address at 565 Taxter Road, Elmsford, New York and the Defendant is foreign business corporation authorized to do business in the State of New York and maintains a registered agent at 28 Liberty Street, New York, New York 10005.

### **FACTS**

7. On August 13, 2013 the Plaintiff Subrogor and the Defendant entered into a contract, whereby the Defendant would perform subcontracting work on behalf of the Plaintiff for an agreed amount of compensation.
8. Said subcontracting work consisted of performing all services in connection with the installation of the permanent cofferdam at replacement of Bridge 0-11 on Main Street over Deal Lake and improvements to Crawford Circle at the intersection of Main Street and Grassmere Avenue, in the County of Monmouth, State of New Jersey.
9. Pursuant to the terms of the contract, the Defendant agreed to defend, indemnify and hold harmless the Subrogor, from and against any and all claims, damages, losses, costs and expenses of any kind, including property damage sustained by any persons or persons, whether employees of the Subcontractor or otherwise, resulting from, arising out of or occurring in connection with the performance of the work provided for in the contract, together with any change orders or additions to the work included in the contract.
10. The Defendant also agreed to defend, indemnify and hold harmless the Subrogor for the Subrogor's own negligence or fault, excepting from the foregoing the sole negligence or fault of any indemnitee if prohibited by law.
11. Additionally, the Defendant agreed to name the Subrogor as Additional Insured under an endorsement that provides primary and non-contributory coverage for general liability, product liability and completed operations liability.
12. On February 18, 2016, employees/agents of the Defendant damaged a sewage line while performing said subcontracting work.

13. Significant repairs were necessary as a result of the damage done to the sewage line, said repairs totaling \$312,290.98.
14. The Plaintiff paid said \$312,290.98 pursuant to the terms of its insurance policy with the Subrogor.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST**

15. Plaintiff repeats, reiterates and realleges each and every allegation contained in the preceding paragraphs of this Verified Complaint numbered "1" through "14" inclusive, with the same force and effect as though fully set forth herein at length.
16. Per the terms of the contract, the Defendant is liable to the Plaintiff for the \$312,290.98 paid by the Plaintiff to repair the damages to the sewage line caused by the Defendant.

**WHEREFORE**, plaintiff demands judgment against the defendant(s) for the sum of \$312,290.98 together with interest from February 18, 2016, along with costs and disbursements of this action.

Dated: Garden City, New York  
June 18, 2019

Yours, etc.,

Law Office of Charles F. Harms Jr.



By: \_\_\_\_\_

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TO:  
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